

Dear Sir or Madam:

At your request, I have enclosed the form used to file a Sworn Formal Complaint against a Real Estate Sales Associate and/or Broker licensed by this Commission.

Please read the attached instructions before completing the complaint form. Please fill out the complaint concisely, including all pertinent facts. Also, please attach copies of any documents you think the Commission should consider. Mail the completed, notarized complaint and all attachments back to the Commission at the address listed below.

Our legal staff will process the complaint and contact you in writing relative to any action taken.

Please allow at least thirty (30) days before making any inquiries about your complaint.

Sincerely,

Lee B. Harris  
General Counsel

LBH/ms  
Enclosure

## INSTRUCTIONS TO FILE A FORMAL COMPLAINT WITH THE KENTUCKY REAL ESTATE COMMISSION

To file a formal complaint with this Commission against a licensee (hereafter referred to as “Respondent”), complete and return the attached complaint form as outlined below:

1. In order for your complaint to be legitimate, the alleged violations must fall under KRS 324.160.
2. When filling out the Complaint form, please state your complaint fully and concisely. Please attach copies of all relevant documents.
3. Note that your complaint must be against a licensed real estate sales associate or broker rather than a company or corporation. Specify the name of any brokers or sales associates against whom the complaint is being made. In order for the complaint to also be against the Principal Broker, he or she must be specifically named in the complaint. You must name the brokers specifically on the complaint and detail what your complaint is against the broker in the complaint text. Please note that pursuant to KRS 324.160 (6) a broker is liable for acts of an associate licensed under him only for failing to adequately supervise the licensed affiliate’s activities or having actual knowledge of a violation of a licensed affiliate.
4. After completing the Complaint Form, have your signature notarized by a Notary Public, or it will be returned to you.
5. If your complaint alleges a prima facie case of a violation of the law, the Respondent will be sent a copy of your complaint and must respond within twenty (20) days. A copy of the response will be sent to you. If the complaint does not allege a prima facie case of violation of the law, it will be returned to you. You will have ten (10) days to supplement the Complaint. If it still does not allege a prima facie case, it will be dismissed.
6. Once the response is received, the complaint will be reviewed by our General Counsel. If the Commission feels there is enough evidence in the complaint that a violation may have occurred, it will be assigned to a Commission investigator. This process takes anywhere from two to four months and sometimes longer. There is no way to predict how long the investigation will take.
7. Once we have received the report of investigation, the matter is again placed before the full Commission for review. It will either be dismissed or set for an administrative hearing. If your case is dismissed, you will receive an Order in the mail. If you disagree with the decision, you have thirty (30) days from the date of your Order to file an appeal in the Circuit Court of the county where you reside.

8. If your complaint warrants a hearing, you will receive a proposed settlement conference date and a proposed hearing date notification. This entire process takes approximately six months to one year. This process involves numerous factors and there is no way to calculate a specific time for all cases.
9. Once you have completed the hearing process, your case is again reviewed by the full Commission. A decision will be made and an Order will be mailed to you. If you disagree with the decision, you have thirty (30) days from the date of your Order to file an appeal in the Circuit Court of the county where you reside.
10. **Please be sure to print or type your complaint. It needs to be legible so that it can be read and copied readily.**
11. **IF YOU CHANGE ADDRESSES AND/OR PHONE NUMBERS BE SURE TO NOTIFY THE COMMISSION IMMEDIATELY.**
12. **The Real Estate Commission promotes the settlement of all cases without the necessity of holding an administrative hearing. The Commission will conduct a settlement conference if both the Complainant and Respondent indicate interest.**

**SWORN STATEMENT OF COMPLAINT FOR FILING WITH**

Kentucky Real Estate Commission  
10200 Linn Station Road, Suite 201  
Louisville, KY 40223  
(502) 429-7250 or Toll-free 1-888-373-3300

**PLEASE TYPE OR USE WORD PROCESSING-- IF UNABLE TO TYPE,**  
**PLEASE PRINT LEGIBLY**

Are you a Licensed Real Estate Agent  
or Broker? Yes \_\_\_\_\_ No \_\_\_\_\_

**\*\*\*ILLEGIBLE COMPLAINTS WILL NOT BE ACCEPTED\*\*\***

*(Full names only no initials or nicknames)*

COMPLAINANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

COUNTY: \_\_\_\_\_

TELEPHONE: (     ) \_\_\_\_\_ (Day)  
(     ) \_\_\_\_\_ (Evening)  
(     ) \_\_\_\_\_ (Fax)  
(     ) \_\_\_\_\_ (Pager)  
(     ) \_\_\_\_\_ (Cellular)

RESPONDENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

COUNTY: \_\_\_\_\_

RESPONDENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

COUNTY: \_\_\_\_\_

REAL ESTATE COMPANY: \_\_\_\_\_

PRINCIPAL BROKER: \_\_\_\_\_

COMPANY ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

COUNTY: \_\_\_\_\_ PHONE: (     ) \_\_\_\_\_ (Day)

STATE OF KENTUCKY

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, state:

[illegible]

[illegible]

Please give the date you became aware of the problem surrounding this complaint:

\_\_\_\_\_.

Signature \_\_\_\_\_  
Complainant

Sworn and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

Signature \_\_\_\_\_  
Co-Complainant or Spouse

Sworn and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

## **How the Complaint Process Works**

The Commission receives numerous consumer complaints each year. Licensees should be aware of the process by which complaints are reviewed and processed by the Commission.

1. The Commission receives a consumer complaint. The complaint must state facts which, if true, amounts to an allegation of a violation of KRS 324.160 by the licensee. The legal term for this is “prima facie case.” The legal authority for this standard is KRS 324.151 (1).
2. The Commission sends the consumer complaint to the licensee. The licensee must respond to the complaint within twenty days. The licensee must also send a copy of his answer to the consumer.
3. The Commission reviews the answer and the complaint. If sufficient allegations are made by the consumer, the Commission orders the case investigated. The Commission investigator interviews all parties and relevant witnesses. Licensees are required to cooperate with Commission investigations. (See KRS 324.160(4) (s).) The time required to complete an investigation varies with each case. The complexity of the case, the number of witnesses and the necessity of evidence retrieval all contribute to the length of investigation. Investigations generally take between two and four months. However, some investigations take longer.

The Commission may also dismiss the case at this point if the consumer has made insufficient allegations of a violation by the licensee.

4. The investigator submits his or her report to the Commission. The Commission reviews cases at its monthly meetings. If sufficient allegations of a prima facie case are indicated, the Commission orders a hearing in the matter.

The time required for Commission review of cases varies. The Commission meets monthly but meets on a different day each month. The Commission may meet on October 1 and again on November 20. Therefore, a case may be submitted by an investigator on October 2 and not be reviewed by the Commission until November (seven weeks later). Two months is a general maximum time period for Commission review.



5. The Commission may dismiss a case after reviewing the investigation. The matter is then finished if the consumer does not appeal the dismissal. Consumer appeals of dismissals rarely occur.

If the Commission orders a hearing after the investigation report review, a notice of hearing and charges is drafted by the Commission attorney. A proposed settlement conference date and a proposed hearing date are scheduled. Hearings are generally scheduled two or three months in advance due to the Commission's existing hearing schedule.

A number of factors may contribute to a longer delay. Many cases before the Commission are also the subject of Circuit Court actions. Commission cases are often held in abeyance pending the conclusion of the Circuit Court matter. Attorneys for licensees often are unable to schedule a hearing immediately. This may also delay the hearing date.

6. A hearing is held. Hearing Officers preside over hearings. The Commission uses Hearing Officers from the Kentucky Attorney General's Office. The Hearing Officer makes rulings on evidence (much like a judge) and makes a recommendation regarding the facts and legal issues of the case to the Commission (much like a jury).

Licensees and consumers may file Exceptions to the Hearing Officer's recommendations. Exceptions state where and why a party disagrees with the Hearing Officer's recommendations. The Commission reviews the recommendations, Exceptions and pleadings in the case. The Order either finds the licensee in violation of KRS 324.160, dismisses the charges, or sends the case back to the Hearing Officer for a partial hearing.

The hearing process can take a number of months. The Hearing Officer has ninety days to prepare his or her recommendations. Each party has another fifteen days to file Exceptions. The Commission then must review the case at its monthly meeting.

Following the final order, either party may appeal the Commission's decision. KRS 324.160 (1) lists the possible discipline the Commission may order against a licensee. The possible disciplines include: suspension or revocation of a license, fines not to exceed \$1000.00, probation up to 12 months, required attendance at real estate educational courses, or the issuance of a formal or informal reprimand.

The Commission may also order a recovery fund award to a consumer. The consumer must prove fraud by the licensee to receive recovery fund money. The Commission first allows the licensee an opportunity to pay the consumer. If the licensee fails to pay the consumer, the Commission pays the consumer and suspends the license until the order amount (and interest) is repaid to the Commission's Recovery Fund by the licensee.